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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

BUTA BUDDHISM RESEARCH
CENTER,

Plaintiff and Appellant,

v.

CHI-LI HOU,

Defendant and Respondent.

E070720

(Super.Ct.No. CIVDS1409754)

OPINION

(Super.Ct.No. CIVDS1501616)

CHI-LI HOU,

Plaintiff and Respondent,

v.

BUTA BUDDHISM RESEARCH
CENTER,

Defendant and Appellant.

APPEAL from the Superior Court of San Bernardino County. Brian S.
McCarville, Judge. Affirmed.

Hammers, PC and Stephen G. Hammers for Plaintiff, Defendant and Appellant,
Buta Buddhism Research Center.

Peter C. Chen and Arnold Freedland for Defendant, Plaintiff and Respondent, Chi-Li Hou.

I. INTRODUCTION

This appeal arises from a judgment quieting title to real property located at 11918 Yorba Avenue, Chino, California (the property). BUTA BUDDHISM RESEARCH CENTER (BBRC) and Chi-Li Hou (defendant)¹ filed competing parallel actions seeking to quiet title in the property, as well as asserting various fraud claims against the other. On November 16, 2017, the trial court granted defendant's motion for summary adjudication on her quiet title cause of action and entered judgment accordingly. BBRC appeals arguing that the trial court erred in granting summary adjudication. We affirm the judgment.

II. FACTS AND PROCEDURAL HISTORY

A. Pleadings and Allegations

On July 2, 2014, BBRC filed a complaint in the Superior Court of San Bernardino County, bearing case No. CIVDS1409754, seeking to quiet title in seven parcels of real property as well as asserting causes of action for unjust enrichment and breach of

¹ We acknowledge that both BBRC and Chi-Li Hou have filed civil complaints seeking to quiet title in the property and as such, both are plaintiffs and defendants with respect to any claim to quiet title. However, for ease of reference, we will refer to BUTA BUDDHISM RESEARCH CENTER as BBRC and Chi-Li Hou as defendant.

fiduciary duty. The property was identified as one of the parcels over which BBRC sought to quiet title. Defendant was not initially named as a party.

On February 9, 2015, defendant filed a separate action, bearing case No. CIVDS1501616, alleging causes of action for quiet title, fraud, declaratory relief, slander of title, conversion, constructive trust, conspiracy, and unjust enrichment against various defendants including BBRC. The quiet title cause of action specifically sought to quiet title over the property in favor of defendant. BBRC answered this complaint and also filed a compulsory cross-action against defendant.

On September 22, 2015, the two actions were ordered consolidated for purposes of both discovery and trial.

On January 8, 2016, BBRC formally named defendant as doe 2 in its complaint.

On January 20, 2017, BBRC dismissed defendant from all causes of action in its operative complaint, except for the second cause of action to quiet title.

On January 25, 2017, BBRC dismissed defendant from its cross-complaint.

On August 31, 2017, defendant filed a motion for summary adjudication. The motion requested adjudication only on the quiet title cause of action with respect to the property and request for declaratory relief related to that claim.²

² The separate statement filed in support of the motion organizes defendant's undisputed material facts into five categories of "issues." However, the notice of motion itself seeks only adjudication on the causes of action for quiet title and declaratory relief.

B. Moving Party's Evidence on Summary Adjudication

1. Declaration of Defendant

Defendant presented her own sworn declaration attesting that she is the daughter of Hsin Jen Hou, who was a Buddhist monk who had attained the rank of “master.” That she knew Tsai-Lien Liao and Jing Shin Chi to have been Buddhist disciples of her father who assisted in some of the operations of BBRC. She declared that she would assist her father with and provide finances for his independent business endeavors. In 2011, she accepted the deed conveying title in the property to her. She periodically wired money, which was intended to pay the property taxes for the property following the transfer of title. Finally, defendant declared that she never provided any powers of attorney to Jing Shin Chi allowing transfer of the property; never consented or authorized any powers of attorney to anyone for the purpose of transferring title in the property; and never agreed to transfer title of the property to anyone. She never appeared before any notaries in the United States and had been physically absent from the United States for at least 20 years prior to her father's funeral in May of 2014.

2. Recorded Instruments and Documentary Evidence

Defendant presented the following recorded grant deeds: (1) a conveyance of the property from Ku Wei Hou to Hsin Jen Hou in October 2008; (2) a conveyance of the property from Hsin Jen Hou to BBRC in November 2008; (3) A conveyance of the property from BBRC back to Hsin Jen Hou in February 2010; (4) a conveyance of the property from Hsin Jen Hou to defendant in December 2011; and (5) a conveyance of the property from defendant back to Hsin Jen Hou in February 2014. The 2014 conveyance

was executed by Jing Shin Chi as attorney in fact for defendant and accompanied by a power of attorney, which purportedly gave Jing Shin Chi authority to transfer the property on behalf of defendant. The power of attorney indicated it had been notarized by Albert Huang.

Defendant also produced copies of Hsin Jen Hou's personal tax returns for 2008, 2009, and 2010. The returns did not list the property among his real property assets.

Defendant produced copies of corporate tax returns for BBRC for the years 2008, 2009, 2010, and 2011. BBRC did not report receiving the property as a non-cash contribution on any of these forms. Additionally, the returns indicated that for each of these years, Hsin Jen Hou was the only officer or director of BBRC, and BBRC had only one voting member on its governing body.

Finally, defendant produced documents from the probate proceedings administering Hsin Jen Hou's estate following his death. These included an executed settlement in which Hsin Jen Hou's estate disclaimed any ownership in the property.

3. Declaration of Albert Huang

Defendant presented the declaration of Albert Huang. Mr. Huang declared that he is a licensed notary public in California and that his notary seal appears on the recorded power of attorney, which purportedly gave Jing Shin Chi authority to transfer title in the property on behalf of defendant. However, Mr. Huang declared that the signatures in the notary acknowledgments did not belong to him, and his notary journal had no record indicating a notary act related to the recorded power of attorney.

4. Declaration and Deposition Testimony of John Campos

Defendant further presented excerpts from the sworn deposition testimony of John Campos. Mr. Campos admitted that he had previously been a licensed notary, but his license was revoked after he was convicted of notary fraud. Albert Huang is his stepson. Mr. Campos testified that he was presented with the 2014 power of attorney purporting to grant Jing Shin Chi authority to transfer title in the property on behalf of defendant after it had already been executed. He does not know defendant; did not witness defendant sign the power of attorney; and does not know who signed defendant's name on the power of attorney. Mr. Campos further testified that he signed Albert Huang's name in the notary portions of the power of attorney and used Albert Huang's notary seal to stamp the power of attorney without Albert Huang's permission.

Defendant also presented a signed declaration by Mr. Campos reaffirming his prior deposition testimony with respect to fraudulently "notarizing" the power of attorney purportedly granting Jing Shin Chi authority to transfer title to the property on behalf of defendant.

5. Deposition Testimony of Tsai-Lien Liao

Finally, defendant presented excerpts from the sworn deposition testimony of Tsai-Lien Liao. Ms. Liao appeared for deposition as the person most knowledgeable from BBRC regarding ownership of the property. She confirmed that BBRC's tax returns in 2008 did not list the property as an asset. She further confirmed that she executed BBRC's 2013 tax return, which represented that the value of assets owned by BBRC remained the same in 2013 as it did in 2008.

C. Opposing Party's Evidence on Summary Adjudication

1. Declaration of Tom C. Tsay

In Opposition, BBRC presented the declaration of Tom C. Tsay. Mr. Tsay declared he was counsel of record for BBRC and participated in the discovery process. He then attached multiple documents purporting to be BBRC's corporate and financial documents and declared that he obtained the documents in some unspecified manner during the discovery process. The trial court sustained evidentiary objections to each and every attached document, as well as Mr. Tsay's interpretation of the contents within each document.

2. Declaration of Linda Webb

BBRC also presented the declaration of Linda Webb. Ms. Webb declared that she was a donor to BBRC, personally knew Hsin Jen Hou, and was a disciple of Hsin Jen Hou. She then declared that in a personal conversation prior to his passing, Hsin Jen Hou represented that he had transferred title to the property to defendant with the intent that defendant transfer title back at a later time. The trial court sustained an evidentiary objection to this statement as hearsay.

3. Declaration of Tsai-Lien Liao

BBRC submitted a declaration by Tsai-Lien Liao. She declared that she was the current chief executive officer of BBRC and took over the role after Hsin Jen Hou's death. She had a 20-year relationship with Hsin Jen Hou in which they were romantically, intellectually, and religiously involved. Both had been ordained as Tibetan Buddhist clerics. She helped found and operate BBRC with Hsin Jen Hou. She handled

the teaching of Buddhism to students while Hsin Jen Hou handled the business aspects of BBRC. She then declared that on behalf of BBRC, she disputed various promissory notes entered into between Hsin Jen Hou and BBRC, as well as disputed ownership of the property.

In her declaration, Tsai-Lien Liao also claimed that Hsin Jen Hou secretly transferred real property away from BBRC to himself; fabricated various promissory notes between himself and BBRC; and comingled his personal finances with that of BBRC. She also declared that Hsin Jen Hou's transactions with respect to the property were conducted without the knowledge or permission of BBRC's board or general members and constituted a fraudulent conveyance. However, the trial court sustained evidentiary objections to each of these statements as speculative, made without foundation, and made without personal knowledge.

D. Hearing on Summary Adjudication

At the time of hearing, the trial court granted the request for judicial notice of all recorded deeds, promissory notes, and orders issued in related litigation, but denied a request for judicial notice of tax return documents. The trial court also granted defendant's evidentiary objections to the documentary exhibits regarding BBRC's corporate and financial records, as well as the previously referenced portions of the declarations of Tom C. Tsay, Linda Webb, and Tsai-Lien Liao. The trial court indicated its tentative ruling to grant the motion for summary adjudication as to issues 1 through 4, which the trial court described as "in essence . . . the first cause of action for quiet title and the third cause of action for dec relief." All parties submitted on the tentative ruling

without any further argument. The trial court entered a minute order reflecting its ruling on summary adjudication on November 16, 2017, and a formal written order and judgment on April 11, 2018.

III. DISCUSSION

1. Relevant Legal Principles and Standard of Review

“A party may move for summary adjudication as to one or more causes of action within an action, . . .” (Code Civ. Proc., § 437c, subd. (f)(1).) “A motion for summary adjudication may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment. . . .” (Code Civ. Proc., § 437c, subd. (f)(2).) “On appeal after a motion for summary judgment has been granted, we review the record de novo, considering all the evidence set forth in the moving and opposition papers except that to which objections have been made and sustained.” (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 334.)

“In undertaking our independent review, we apply the same three-step analysis used by the trial court. First, we identify the issues framed by the pleadings. Second, we determine whether the moving party has established facts justifying judgment in its favor. Finally, in most cases, if the moving party has carried its initial burden, we decide whether the opposing party has demonstrated the existence of a triable issue of material fact.” (*Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 858-859.) “[W]e view the evidence in a light favorable to the losing party . . . liberally construing her evidentiary submission while strictly scrutinizing the moving party’s own showing and

resolving any evidentiary doubts or ambiguities in the losing party's favor.” (*Id.* at p. 859.)

2. Issues Framed by the Pleadings

The only issue noticed for summary adjudication was defendant's cause of action to quiet title to the property. On this issue, defendant alleged that her ownership of the property arose out of recorded grant deed transferring title from Hsin Jen Hou to defendant in 2011. She alleged that a subsequent grant deed recorded in 2014 transferring title back to Hsin Jen Hou was fraudulent; should be set aside; and as a result, title in the property should revert back to her.

Likewise, by the time of defendant's motion for summary adjudication, BBRC had dismissed defendant from its cross-complaint as well as every cause of action in its operative complaint except for the cause of action to quiet title to the property. BBRC's claim to title rested on a recorded grant deed transferring title from Hsin Jen Hou to BBRC in 2008. It alleged that a subsequent grant deed recorded in 2010 transferring title from BBRC back to Hsin Jen Hou was fraudulent, illegal, or otherwise void. Accordingly, BBRC alleged that all subsequent grant deeds should be set aside. Thus, for purposes of summary adjudication, the only issue framed by the pleadings was which of the two parties had a superior claim of title to the property.

3. Evidentiary Rulings on Appeal

As an initial matter, we address several evidentiary issues raised on appeal by BBRC. BBRC contends that: (1) the trial court should not have taken judicial notice of various documents proffered by defendant in support of summary adjudication; (2) the

trial court should have overruled objections to the declaration of Linda Webb; and (3) various exhibits submitted in support of summary adjudication are missing from the superior court's official files. We conclude that none of these evidentiary issues raised on appeal have any merit.

First, BBRC has forfeited any challenge to evidence submitted by defendant for failure to object below. Evidentiary objections not made at or before the time of hearing on summary adjudication are deemed forfeited on appeal. (Code Civ. Proc., § 437c, subd. (b)(5); *Collin v. CalPortland Co.* (2014) 228 Cal.App.4th 582, 598.) BBRC has not directed us to anything in the record to indicate it filed an opposition to defendant's request for judicial notice; filed any written objections to any of defendant's evidence; or raised any evidentiary objection at the time of the hearing on defendant's motion. Nor has our independent review of the record revealed any such objections. Accordingly, BBRC has forfeited any claim that the trial court improperly took judicial notice of any documents and we decline to entertain such argument for the first time on appeal.

Second, we find no abuse of discretion in sustaining the objections to portions of the declaration of Linda Webb. "Although it is often said that an appellate court reviews a summary judgment motion 'de novo,' the weight of authority holds that an appellate court reviews a court's final rulings on evidentiary objections by applying an abuse of discretion standard." (*Carnes v. Superior Court* (2005) 126 Cal.App.4th 688, 694.) "The party challenging an evidentiary ruling bears the burden of establishing the court exceeded the bounds of reason." (*Mackey v. Board of Trustees of California State University* (2019) 31 Cal.App.5th 640, 657; see *Serri v. Santa Clara University*, *supra*,

226 Cal.App.4th at p. 852.) Here, the trial court sustained an objection to a single paragraph of Linda Webb's declaration wherein she recounted a conversation she had with Hsin Jen Hou in which he purportedly stated his intent was only to transfer title to the property to defendant for a short period of time. This statement was clearly hearsay. BBRC argues that it was nevertheless admissible as a party admission under Evidence Code Section 1220. We disagree. Neither Hsin Jen Hou nor his estate are parties to the action. Simply because BBRC alleges Hsin Jen Hou and defendant acted in concert does not provide any basis for the trial court to treat them as the same person or same party for purposes of evidentiary rulings. We thus find no abuse of discretion.

Finally, it is entirely unclear why BBRC takes issue with documents now purportedly missing from the trial court's files. BBRC was presumably served with each of the documents filed in support of defendant's motion and has not indicated otherwise. Nor does BBRC allege that a document was missing at the time the trial court considered and ruled on the motion. Thus, BBRC has not explained how it was prejudiced by missing exhibits or how that impacts its appeal. Absent prejudice, we find no reason to consider the issue further.

4. The Moving Party Met Her Burden

Having addressed the evidentiary issues raised by BBRC, we proceed to consider defendant's evidence to determine whether she met her initial burden to make a prima facie case entitling her to summary adjudication on the quiet title cause of action. We conclude that defendant's evidence was sufficient to meet this burden.

Here, defendant is both a plaintiff and a defendant in parallel claims to quiet title. While a defendant moving for summary adjudication may do so by negating any essential element of the plaintiff's claim, a plaintiff arguably bears a higher burden in that he must produce evidence showing that each element of the cause of action in question has been proven. (*See Troyk v. Farmers Group, Inc.* (2009) 171 Cal.App.4th 1305, 1321; *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) Thus, since defendant here was also a plaintiff in her own right seeking to quiet title, we believe it appropriate to hold her to the standard required of a plaintiff in assessing whether she met her burden.

“To prevail on a quiet title claim, a plaintiff must establish title to the property in dispute.” (*Thompson v. Ioane* (2017) 11 Cal.App.5th 1180, 1193, 1195.) In the context of summary judgment on a quiet title claim, the plaintiff bears “the burden to make out a prima facie case of ownership.” (*Id.* at p. 1195.) The plaintiff's evidence must establish his own title in the property. (*Preciado v. Wilde* (2006) 139 Cal.App.4th 321, 326.) Additionally, the plaintiff must show that his title is superior to that of the defendant. (*Gerhard v. Stephens* (1968) 68 Cal.2d 864, 918; see *Hines v. Hubble* (1956) 144 Cal.App.2d 830, 837.)

Here, defendant presented recorded grant deeds tracing the passage of title from Hsin Jen Hou to BBRC in 2008; from BBRC back to Hsin Jen Hou in 2010; from Hsin Jen Hou to defendant in 2011; and from defendant back to Hsin Jen Hou in 2014. Absent any indication in the deeds themselves, the law presumes that full ownership passes with each grant deed. (*City of Manhattan Beach v. Superior Court* (1996) 13 Cal.4th 232, 242 [The law presumes a fee simple title is intended to pass by a grant of real property unless

it appears from the grant that a lesser estate was intended.].) Moreover, it was unnecessary for defendant to explain the purpose or intent behind each of these deeds, as recorded grant deeds are themselves prima facie evidence of ownership. (*Winchell v. Lambert* (1956) 146 Cal.App.2d 575, 578; see Civ. Code, § 1105; *Carloss v. County of Alameda* (2015) 242 Cal.App.4th 116, 130 [Recorded grant deeds are often the best evidence of transfer of ownership.].) The deeds were therefore sufficient to make a prima facie showing of the passage of title.

The declarations of Albert Huang and John Campos constituted evidence which, if true, would support a finding that the 2014 grant deed that conveyed title from defendant back to Hsin Jen Hou was executed and recorded by use of a fraudulent and fraudulently notarized power of attorney. This was sufficient to make a prima facie showing that the 2014 deed should be set aside on the basis of fraud and, as a result, title should revert back to defendant. The probate documents presented by defendant indicated Hsin Jen Hou's estate was not claiming title to the property despite the recorded 2014 deed in his favor, which further supported setting aside that conveyance. Accordingly, defendant's evidence was sufficient to make a prima facie case of her ownership of the property by way of the 2011 grant deed transferring title to her.

5. BBRC Failed to Produce Evidence of a Triable Issue of Material Fact

Because defendant met her initial burden to show a prima facie case of ownership in the property, the burden shifted to BBRC to produce evidence to establish a triable issue of material fact. In the context of this quiet title action, BBRC could do so by either producing evidence to dispute defendant's claim to title or producing evidence that would

support a potentially superior claim to title. We conclude that BBRC failed to meet this burden in opposition to summary adjudication.

“ ‘In determining whether a triable issue was raised or dispelled, we must disregard any evidence to which a sound objection was made in the trial court, but must consider any evidence to which no objection, or an unsound objection, was made.’ ”
(*Serri v. Santa Clara University*, *supra*, 226 Cal.App.4th 830 at p. 852; see *Habitat Trust for Wildlife, Inc. v. City of Rancho Cucamonga* (2009) 175 Cal.App.4th 1306, 1337 [Review of summary judgment does not consider evidence to which objections have been sustained.].)

Here, BBRC attempted to establish a triable issue of material fact by submitting the declaration of Tom C. Tsay, which attached numerous documents purportedly obtained during the discovery process. However, the trial court sustained evidentiary objections to every single document. Accordingly, these documents cannot be considered in determining whether BBRC met its burden to establish a triable issue of material fact.

Likewise, BBRC proffered the declaration of Linda Webb. However, the trial court sustained an evidentiary objection to the only paragraph in that declaration referencing anything related to ownership of the property and, as we have already explained, the trial court’s ruling was not an abuse of discretion. Without that paragraph, Ms. Webb’s declaration consisted of nothing more than a statement that she was generally familiar with the property and she knew Hsin Jen Hou personally. These

statements did not show a dispute as to any issue material to defendant or BBRC's claim of title to the property.

Finally, BBRC proffered the declaration of Tsai-Lien Liao, the current chief executive officer of BBRC. Again, the trial court sustained evidentiary objections to significant portions of her declaration. Once those paragraphs are disregarded, her declaration consisted of a history of her personal relationship with Hsin Jen Hou; a statement that she took over as chief executive officer of BBRC following Hsin Jen Hou's death; three paragraphs that summarized the contents of documents already before the trial court; and two conclusory statements that she disputed the validity of promissory notes between BBRC and Hsin Jen Hou and the ownership of the property "on behalf of BBRC." None of these statements constituted evidence undermining defendant's claim of ownership in the property. Nor did any of these statements raise a reasonable inference that BBRC had a superior claim to title in the property. They constituted nothing more than statements mirroring allegations already made in BBRC's pleadings.

BBRC cannot meet its burden in opposing summary adjudication by merely presenting a declaration that does nothing more than mirror the allegations of its own pleading. The party opposing summary judgment " 'may not simply rely on the allegations of its pleadings but, instead, must set forth the specific facts showing the existence of a triable issue of material fact. [Citation.] A triable issue of material fact exists if, and only if, the evidence reasonably permits the trier of fact to find the contested fact in favor of the plaintiff in accordance with the applicable standard of proof.' " (*YDM Management Co., Inc. v. Sharp Community Medical Group, Inc.* (2017) 16 Cal.App.5th

613, 622; see *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516, 525 [“ ‘An issue of fact can only be created by a conflict of evidence.’ ”].) The evidence set forth above does not materially conflict with anything presented by defendant in moving for summary adjudication. Absent a conflict in the evidence or competing inferences that can be drawn from the evidence, BBRC did not meet its burden to establish a triable issue of material fact.

6. Defendant’s Evidence Does Not Give Rise to Competing Inferences

Finally, BBRC argues that regardless of the evidence it presented in opposition, defendant’s own evidence “admitted” or raised competing inferences precluding summary adjudication. Specifically, BBRC contends that defendant’s evidence suggested that the transfer of title from BBRC to Hsin Jen Hou was illegal, violated foreclosure laws, or violated laws pertaining to nonprofit corporations. Alternatively, BBRC alleges the evidence suggested the subsequent transfer of title from Hsin Jen Hou to defendant was fraudulent. We disagree.

We acknowledge that summary adjudication is improper where the moving party’s evidence gives rise to competing inferences. (*Cohen v. Five Brooks Stable* (2008) 159 Cal.App.4th 1476, 1497 [“ ‘ “Only when the inferences are indisputable may the court decide the issues as a matter of law.” ’ ”].) Nevertheless, “[w]hen opposition to a motion for summary judgment is based on inferences, those inferences must be reasonably deducible from the evidence, and not such as are derived from speculation, conjecture, imagination, or guesswork.” (*Joseph E. Di Loreto, Inc. v. O’Neill* (1991) 1 Cal.App.4th 149, 161.) We consider each of the alleged competing inferences raised by BBRC but

find that such inferences are not reasonably deducible from the evidence before the trial court.

BBRC contends that an inference of illegality may be drawn from the fact that Hsin Jen Hou “worked both sides” of the transaction resulting in a promissory note and ultimately transfer of title in the property from BBRC to Hsin Jen Hou. However, BBRC has cited to no authority, and we are not aware of any authority, which suggests that an inference of illegality can be drawn simply from the fact that an individual holds a material interest in both sides of an otherwise private financial transaction.³ This evidence does not give rise to a reasonable inference of illegality.

BBRC also argues that even if the promissory note between Hsin Jen Hou and BBRC was valid and enforceable, the transfer of title pursuant to that note is void because Hsin Jen Hou failed to comply with the statutory provisions governing foreclosures. Even if we were to assume that foreclosure statutes applied in this case, there was no evidence to suggest that Hsin Jen Hou failed to comply with such statutory provisions prior to transferring title back to himself.⁴ There were no declarations or documents before the trial court setting forth the procedures that led to the transfer of title

³ We note that BBRC’s own claim to title arises out of a 2008 grant deed involving the same circumstances with Hsin Jen Hou on both sides of the transaction. Yet BBRC does not claim anything illegal about that transaction simply because Hsin Jen Hou acted in both an individual and representative capacity at the time.

⁴ While the declaration of Tsai-Lien Liao stated that none of the officers or directors of BBRC had knowledge of any transactions, the trial court sustained an evidentiary objection to that statement. Tsai-Lien Liao did not purport to be an officer or director during the relevant time period and did not explain why she would be expected to have any personal knowledge of what other people knew or didn’t know.

from BBRC back to Hsin Jen Hou.⁵ In the absence of any evidence, any inference that BBRC was denied notice or an opportunity to cure a default would constitute pure speculation. An inference precluding summary adjudication cannot be based simply on speculation.

BBRC also argues that the promissory note between Hsin Jen Hou and BBRC, as well as the 2010 transfer of title from BBRC to Hsin Jen Hou, created an inference that the transaction was illegal in violation of Corporations Code section 9243, which provides that certain transactions involving nonprofit corporations are voidable if they involve self-dealing by a corporate director. However, nothing in Corporations Code section 9243 prohibits transactions between a nonprofit corporation and one of its officers per se. In fact, the statute lists multiple scenarios in which such a transaction would be permissible under the statute. (Corp. Code, § 9243, subds. (b) & (d).) Thus, the fact that Hsin Jen Hou engaged in a financial transaction with BBRC while serving as one of its officers does not, on its own, create a reasonable inference of illegality. There was no admissible evidence regarding how the promissory note came about, the intent behind the promissory note, BBRC's decision making process (or lack thereof) in relation to the promissory note, or the persons involved with the promissory note. Absent such

⁵ In fact, BBRC's tax returns suggested that during the relevant time period, Hsin Jen Hou was the only officer and BBRC had only one voting member on its governing body at the time. Accordingly, any notice to BBRC would presumably be delivered from Hsin Jen Hou to himself, and any decision to cure a default or forfeit the property would also presumably have been made by Hsin Jen Hou.

evidence, any inference that the transaction was “self-dealing” or illegal would be purely speculative.

Finally, BBRC contends that a triable issue of material fact exists because inconsistencies in the declaration provided by defendant suggests the 2011 grant deed transferring title from Hsin Jen Hou to defendant was fraudulent. Specifically, BBRC argues that it presented sufficient evidence to dispute defendant’s claim that Hsin Jen Hou deeded the property to her in part because of love and affection and in part because of prior financial and personal support. However, summary adjudication may not be denied on grounds of credibility of witnesses furnishing affidavits or declarations in support of the motion. (Code Civ. Proc., § 437c, subd. (e); *Ayon v. Esquire Deposition Solutions, LLC* (2018) 27 Cal.App.5th 487, 496.) Thus, merely attacking the credibility of defendant’s averments does not itself show a triable issue of material fact sufficient to warrant denial of summary adjudication. More importantly, BBRC has not shown how a dispute on this collateral issue would be material. Since BBRC has not shown a triable issue of material fact with respect to Hsin Jen Hou’s title in the property as of 2011, he was presumably entitled to deed the property to defendant for any reason. Even if defendant was completely mistaken regarding those reasons, such would not be evidence of fraud. Indeed, BBRC admits that the failure of defendant to provide consideration in exchange for the property is not sufficient to void the transfer. Thus, even if we were to assume that defendant’s declaration was inconsistent or wholly incorrect regarding Hsin Jen Hou’s motive for conveying title in the property to defendant, the uncontradicted

evidence remains that Hsin Jen Hou did in fact transfer title to defendant. Any inconsistency regarding his motive does not give rise to an inference of fraud.

We conclude that the evidence before the trial court was not sufficient to support any of the competing inferences alleged by BBRC on appeal. Absent a conflict in evidence or reasonably deducible competing inferences, summary adjudication on the quiet title action was proper.

IV. DISPOSITION

The judgment is affirmed.

Respondent Chi-Li Hou is awarded costs on appeal.

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FIELDS
J.

We concur:

McKINSTER
Acting P. J.

CODRINGTON
J.